IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1955/07

Ajam Ali **Versus** State

DATE OF ORDER : 28/11/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Azad Ahmed, for petitioner

Mr. Arun Sharma, Public Prosecutor for State

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Instant petition has been filed assailing order dated 23rd October, 2007 whereby application filed u/ss.451-457 Cr.P.C. for release of vehicle on superdagi was rejected by learned trial Judge.

FIR was registered against accused-petitioner for offence u/s.3, 5/8 of Rajasthan Bovine Animal [Prohibition of Slaughter and Regulation of Temporary Migration or Export] Act, 1995 read with Sections 353 & 307 IPC on 16th February, 2007 and his vehicle was also seized pending investigation.

Petitioner being registered owner of vehicle which was seized in regard to aforesaid alleged offence filed application at the stage initially when the investigation was pending, was dismissed by learned trial Judge vide order dated 21st March, 2007 on the premise that pending investigation, vehicle cannot be handed over on superdagi at this stage.

Thereafter, a fresh application was filed after filing challan, which was dismissed vide order impugned dated 23rd October, 2007 taking note of nature of offence being committed which was considered by him to be of grievous nature against the society and has not considered appropriate to release the vehicle on supurdagi.

It is not in dispute that the vehicle is lying in custody of SHO, PS Jurhera, District Bharatpur in an open place and chances of its being damaged on account of its exposure to natural effects like sun & rain etc, which is imminent, rather it will diminish its value and also deprive the petitioner of his regular income, which will also add to national loss. Since the challan has been filed, trial will take its own time and the vehicle, of which petitioner is a registered owner, was seized in February, 2007 on FIR being registered, if not released by passage of time till trial is concluded, it will be of no use. From the record, it appears that vehicle was purchased by accused-petitioner on 27th January, 2007 from Data Motor Limited. Temporary registration and insurance both are in the name of petitioner. No other claimant has come forward by filing application before learned trial Judge.

Consequently, misc. petition stands allowed and the order dated 23rd October, 2007 is hereby quashed and set aside. Taking into consideration

all the facts & circumstances of the case, vehicle seized during investigation in FIR No.25/07 for offence u/s.3, 5/8 of Rajasthan Bovine Animal [Prohibition of Slaughter and Regulation of Temporary Migration or Export] Act, 1995 read with Sections 353 & 307 IPC, be released on superdagi and delivered to petitioner during pendency of investigation, inquiry & trial on satisfying following conditions:

(1)petitioner shall furnish personal bond in a sum of Rs.12,50,000/- [Rupees Twelve lacs fifty thousand only] with one surety in the like amount to the satisfaction of the trial Court with the stipulation to produce the vehicle on superdagi before the trial Court or competent authority during inquiry, investigation and trial as & when ordered/required.

(2)that in the presence of investigating officer, he shall get three coloured cabinet size photographs of the vehicle in question each set showing (a) chesis number; (b) engine number; & (c) total body of the vehicle and produce photographs & its negatives alongwith challan before the trial Court.

(3) that he shall not change the colour or alter numbers or tamper with the evidence in any manner and shall not make or allow any changes in its to be made so as to make it unidentifiable;

(4)that without prior permission of the trial

Court, he shall not transfer or alienate the said vehicle during pendency of the trial and shall not lease it to any one;

[AJAY RASTOGI],J.